

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,308

SMITHKLINE BEECHAM CORPORATION
(6,518,399),
Junior Party,

v.

BOARD OF REGENTS FOR THE UNIVERSITY OF TEXAS SYSTEM,
UNITED STATES OF AMERICA,¹ **MERCK FROSST CANADA & CO., AND MERCK & CO.**
(09/601,582),
Senior Party.

Entered: 13 February 2006

Judgment - Bd. R. 127(b) - Requested

Before SCHAFFER, TORCZON, and MOORE, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

1 The senior party has requested (Paper 33) "that adverse judgment be entered
2 against it in the present Interference as to all of the claims designated as corresponding
3 to the Count". The request is GRANTED.

4 HELD that judgment be entered against the senior party;

5 FURTHER HELD that the senior party not be issued claims for the subject matter
6 of the count, specifically including 09/601,582 claims 1, 4, 5, and 7, which correspond
7 to the count; and

¹ As represented by the Secretary for the Department of Health and Human Services.

1 FURTHER HELD that a copy of this decision be entered in the administrative
2 records of the 09/601,582 patent application and the 6,518,399 patent.

/Richard E. Schafer/
Administrative Patent Judge

/Richard Torczon/
Administrative Patent Judge

/James T. Moore/
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

cc (via electronic mail):

For Smithkline Beecham Corp.: **Gerald M. Murphy, Jr.** and **MaryAnne Armstrong**,
BIRCH, STEWART, KOLASCH & BIRCH, LLP, of Falls Church, Virginia.

For Board of Regents of the University of Texas System, the United States of America,
Merck Frosst Canada & Co., and Merck & Co.: **Robert A. Hodges** and **Tina W.**
McKeon, NEEDLE & ROSENBERG, P.C., of Atlanta, Georgia.

Notice: Agreements and understandings regarding the termination of an interference
are subject to filing requirements under 35 U.S.C. 135(c).

Notice: In the event of judicial review, note the requirements of Bd. R. 8(b).

Townes, Yolunda

From: Townes, Yolunda on behalf of Interference Trial Section

Sent: Monday, February 13, 2006 3:26 PM

To: 'Hodges, Robert (NEEDLE & ROSENBERG)'; 'Mailroom (BIRCH STEWART)'; 'Mailroom (BIRCH STEWART)'; 'McKeon, Tina (NEEDLE & ROSENBERG)'

Subject: Interference #105308_035 - Judgment-Bd.R. 127(b)-Requested

2/13/06